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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,515	05/24/2000	Muhammed A. Qureshi	Hernandez-Valencia 13-4-7	6419

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EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
2665	8

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/577,515

Applicant(s)

QURESHI ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,17,18 and 26 is/are rejected.
- 7) ☒ Claim(s) 3-9,11-16,19-25 and 27-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: The serial number and the filing date of the specification are not filled out in the blank on page 1 of Declaration.

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrison et al. (U.S. Patent 5,854,903).

For claim 1, Morrison et al. disclose optimization method for routing and logical network design in multi-service networks comprising the steps of:

(1) identifying a first set of virtual pipelines for which traffic exceeds a predetermined threshold (figure 2, col. 9 lines 36-44 and col. 9 lines 54-60);

(2) for each virtual pipeline in said set, determining a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 9 lines 54-60 and col. 26 lines 30-41); and

(3) for each pipeline in said first set, assigning a corrective action and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional channels (figure 2, col. 9 lines 36-44, col. 9 lines 54-60 and col. 26 lines 30-41).

For claim 17, Morrison et al. disclose optimization method for routing and logical network design in multi-service networks comprising the steps of:

means for identifying a first set of virtual pipelines for which traffic exceeds a predetermined threshold (figure 2, col. 9 lines 36-44 and col. 9 lines 54-60);

means for determining, for each virtual pipeline in said set, a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 9 lines 54-60 and col. 26 lines 30-41); and

means for assigning, for each pipeline in said first set, a corrective action and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional channels (figure 2, col. 9 lines 36-44, col. 9 lines 54-60 and col. 26 lines 30-41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. (U.S. Patent 5,854,903) in view of Ginzboorg (U.S. Patent 5,898,672).

For claims 2 and 18, Morrison et al. do not disclose wherein step (3) comprises the steps of assigning a call gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold. In an analogous art, Ginzboorg discloses the steps of assigning a call gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold (col. 11 lines 4-7). Ginzboorg discloses further means for assigning a call gapping rate for each peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold (col. 11 lines 4-7 as set forth in claim 18).

One skilled in the art would have recognized a call gapping rate to use the teachings of Ginzboorg in the system of Morrison et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the call gapping rate as taught by Ginzboorg in Morrison et al.'s system with the motivation being to provide the advantage of the

central node is that the amount of work due to comparison is reduced by $1/(1-p)$ (col. 11 lines 7-9).

8. Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. (U.S. Patent 5,854,903) in view of Szentesi (U.S. Patent 5,844,886).

For claims 10 and 26, Morrison et al. do not disclose wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network. In an analogous art, Szentesi discloses wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network (col. 7 lines 14-24). Szentesi discloses further wherein said corrective action comprises rerouting calls in said peripheral networks so that they pass through a different pipeline in said packet-based network (col. 7 lines 14-24 as set forth in claim 26).

One skilled in the art would have recognized rerouting calls to use the teachings of Szentesi in the system of Morrison et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the rerouting calls as taught by Szentesi in Morrison et al. with the motivation being to provide additional revenue gains over that obtainable by partially rerouting traffic away from congested network links (Abstract lines 10-12).

Allowable Subject Matter

9. Claims 3-9, 11-16, 19-25 and 27-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

Toan D. Nguyen

Toan D. Nguyen